

**Board for Professional Engineers and Land Surveyors
Board Meeting Minutes
May 13, 2005**

**2535 Capitol Oaks Drive
Third Floor Conference Room
Sacramento, California 95833
(916) 263-2222**

Friday, May 13, 2005

Board Members Present: James Foley (President), Cindy Tuttle (Vice President), Gregg Brandow, David Fruchtman, Robert Jones, William Schock, Elizabeth Warren, Michael Welch, and Dale Wilson

Board Members Absent: Arthur Duffy, William Roschen, Millicent Safran, and Edward Yu

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Susan Ruff (Liaison Deputy Attorney General), Debbie Thompson (Budget Analyst), Nancy Eissler (Enforcement Program Manager), Cindy Fernandez (Executive Analyst), Eileen Crawford (Senior Staff Civil Engineer), and Joanne Arnold (Assistant Executive Officer)

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order by President Foley at 8:10 a.m. Roll call was taken, and a quorum was established.

Mr. Jones arrived at 8:50 a.m.

2. Public Comment

There was no public comment.

3. Approval of Consent Items (Possible Action)

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a

Board member wishes to discuss will be removed from the consent items and considered separately.)

a. Approval of the Minutes of the March 18, 2005, Board Meeting

MOTION: Mr. Schock/Mr. Wilson moved to approve the minutes of the March 18, 2005, Board meeting.

VOTE: 8-0, motion carried.

4. Approval of Delinquent Reinstatements (Possible Action)

MOTION: Mr. Schock/Vice President Tuttle moved to approve the Delinquent Reinstatements as follows:

CIVIL

1. William Robertson

Reinstate applicant's civil license once he takes and passes the Board's Laws and Regulations Examination.

2. William Farthing

Reinstate applicant's civil license once he takes and passes the Board's Laws and Regulations Examination.

ELECTRICAL

1. Bansi Tikku

Reinstate applicant's electrical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

MECHANICAL

1. Gerardo Fernandez Maga

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

2. Juan C. Zambrano

Reinstate applicant's mechanical license, having passed the Board's Laws and Regulations Examination.

VOTE: 8-0, motion carried.

5. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Mr. Wilson/Mr. Schock moved to approve the Amended Handout Comity List.

VOTE: 8-0, motion carried.

MOTION: Vice President Tuttle/Mr. Welch moved to approve a Temporary Civil Authorization for a period of 180-days for Patrick Vasicek.

VOTE: 9-0, motion carried

10. Examinations/Qualifications

a. Adopt Board Rules 404, 424, and 460 [Definitions, Experience Requirements & Curricula Approved By the Board] and Adopt Board Rule 443 (Inspection of Examination) (Possible Action)

Ms. Christenson gave an update on the status of these Regulations and advised the Board that DCA had issues that staff is trying to resolve.

b. Requests for Proposals for the Special Civil, Professional Land Surveyor, Geotechnical, and Structural Examinations. (Possible Action)

Ms. Christenson reported that the RFP's are still out for bid on the Geotechnical and Structural Examinations and we anticipate announcing the vendor by next Board meeting. She also advised the Board that PMES won the bid for the Special Civil and Land Surveyor Examinations.

9. Enforcement

a. Update regarding Rulemaking Proposals, including but not limited to Board Rules 404.1 and 404.2 (Responsible Charge), Board Rule 418 (Criteria for Rehabilitation), and Board Rule 473 (Citations of Licensed Persons) (Possible Action)

Ms. Eissler reported that staff is preparing the final rulemaking files on all of these rulemaking proposals for submittal to the Department of Consumer Affairs and the Office of Administrative Law.

16. Executive Officer's Report

1. Administration Report

a. Executive summary report
No additional report given.

2. Personnel

a. New Hires

Ms. Christenson reported that two individuals are out on medical leave and that we have hired temporary help to assist with the workload.

b. Vacancies

No further update provided.

3. Enforcement/Examination/Licensing

a. College Outreach

Ms. Crawford continues to head this project and since last Board meeting she has conducted a couple of College Outreach seminars.

b. Report on Enforcement Activities

Ms. Christenson reported that enforcement is doing a good job on catching up on enforcement cases.

c. Report on Examination Activities

Ms. Christenson reported that on the April 2005 examination administration there were little or no complaints with candidates showing up late to the exam. She also reported that there are only eight exam subversion cases for the April 2005 examinations.

4. Publications/Website

a. Website Activity Statistics

No additional report was given.

5. Other

a. DCA update

No additional report was given.

13. Liaison Reports (Possible Action)

a. ABET

No report given

b. NCEES

Dr. Brandow reported that NCEES is doing a study on the Model of Licensure. One thing they are looking at is to allow an individual to take the examination right out of school.

Dr. Brandow also reported that the NCEES lawsuit against the California engineer who stole exam problems has been settled and in addition to

being fined, this engineer can never take an engineering examination in any state.

- c. **Technical and Professional Societies**
No report given.

12. Technical Advisory Committee Reports
(No Committee Meetings were held.)

- a. **Board Assignments to TACs (Possible Action)**
No assignments to TACs.
- b. **Appointment of TAC Members (Possible Action)**
No appointment of TAC Members.

President Foley requested that an LSTAC meeting be held in the near future.

11. Legislative

- a. **Discussion of Legislation for 2005, including but not limited to AB 180, AB 226, AB 861, SB 246, SB 752, and SB 1113 (Possible Action)**
Ms. Arnold gave an update on information contained in the agenda.

MOTION: Mr. Schock/Ms. Warren moved to support AB 446, Professions and Vocations: settlement agreements.

VOTE: 8-0, motion carried.

MOTION: Mr. Schock/Mr. Wilson moved to watch AB 861, Professions and vocations: licensure.

VOTE: 8-0, motion carried.

- b. **Regulation Status Report**
Updates contained in the agenda.

7. Sunset Review Issues

- a. **Draft Legislative Language (Possible Action)**
Ms. Christenson reported on information contained in the agenda.

President Foley reported that he received faxes from many organizations and individuals concerning this issue.

Mr. DeWitt, representing CELSOC, provided a handout (see attached) with recommendations/comments/concerns of CELSOC regarding this issue.

Mr. Callahan, Secretary of CLCPE, also provided a handout (see attached) with recommendations/comments/concerns of CLCPE.

Mr. Katin, President of CLCPE, reported that he received letters from Deans and Regulatory Agencies supporting CLCPE's recommendations (see attached).

Mr. Weller, P.E., stated that he supports the conversion of title act engineers to practice act engineers and all the same opportunities as other practice act engineers (including overlap for all practice act disciplines), and the right to take responsible charge of all engineering projects when justified by education and experience (see attached).

Mr. Pierce, representing CLCPE, provided letters to support the continuation of the Agricultural Engineer registration in CA. from organizations, regulatory agencies, and individuals (see attached)

Ms Thomson, P.E., PTOE, provided a handout (see attached) with recommendations/comments/concerns. She also stated that she supports the transitioning of some of the Title Acts and that "overlap" is a wonderful movement. Ms. Thomson also offered to help in anyway she can.

Ms. Lee stated that she supports the conversion of Title Act Engineer to Practice Act Engineer, Overlap for all Practice Act disciplines, and the right to responsible charge of all engineering projects when justified by education and experience (see attached).

Ms. Christenson and Mr. Gage clarified that it is not up to the Board to make a recommendation on Agricultural, Metallurgical, and Industrial engineers because the Legislature has decided to no longer regulate them.

Mr. Gage complemented the staff for all their hard work.

Ms. Christenson reported that staff recommends that the Board consider the following statutory changes:

- Revise Sections 6738 and 8729 regarding businesses. These sections are very lengthy and very confusing. They address such things as business names, fictitious names, owner/part-owner of a business, etc. Enforcement staff is developing language to make these sections clearer to the public and licensees.

- Remove or revise the statute requiring the production of a roster. Currently license look-up serves the public in the same manner as the hard copy roster. However, it is updated more frequently. In addition, licensees may use this as proof of current licensure.
- Remove the statute requiring the production of a Plain Language Pamphlet for engineers and land surveyors. The intent of the PLP was to assist candidates by having an easy-to-read publication. However, because the exact law is not cited, the plain language version is often misinterpreted.
- Revise section 8741 so that the requirement of the Board prescribing by regulation the experience and education requirements for the Land Surveyor-in-Training examination be either permissive or removed altogether. The existing statute does not meet with the intent of the original legislation.

MOTION: Mr. Wilson/Ms. Warren moved to recommend to Legislature to include all changes in SB 246, specifically;

- remove requirement to print roster
- remove requirement to prepare PLP for both PE & LS
- amend 8741 to clarify LSIT requirement
- amend contractor's exemption to include fire protection and control systems disciplines
- amend sections as needed to include all new practice acts

VOTE: 9-0, motion carried.

MOTION: Mr. Wilson/Dr. Brandow moved to recommend to legislature to include Title Act conversion language and changes as discussed into SB 246.

VOTE: 9-0, motion carried.

MOTION: Mr. Schock/Vice President Tuttle moved to use the phrase "structural engineering" instead of "structures" in the exemption to overlap and use the definition of "structural engineering" currently contained in regulation, with the necessary modifications to remove the reference to the structural authority, and place that definition in statute.

VOTE: 9-0, motion carried.

b. Sunrise Process (Possible Action)

No additional report was given.

6. Adoption of Amendments to Board Rule 407 (Fees) (Possible Action)

Ms. Christenson stated that this has gone back and forth with agency.

MOTION: Mr. Schock/Mr. Welch moved to adopt the final language for Board Rule 407, regarding fees and submit to DCA & OAL for approval.

VOTE: 9-0, motion carried.

8. Administrative

a. Fund Condition (Possible Action)

Ms. Thompson reported on the Board's fund condition dated April 20, 2005. Renewal revenue projections for FY 2004-05 decreased from \$4,164,000 to \$3,353,085 and application revenue increased from \$3,511,000 to \$3,444,126. Reimbursements received to date of \$16,850 were also updated on the fund condition. The Board still faces a projected deficit in FY 2007/08. Ms. Thompson also prepared a separate fund condition that includes the fiscal impact to the Board's reserve with the proposed renewal fee regulations and the FY 2006/07 BCPs. This fiscal impact shows the Board will maintain at least a 3-month reserve in future FYs with the revenue increase from the proposed regulations and the expense increase from FY 2006/07 BCPs.

b. Fiscal Year 2004/05 Budgets (Possible Action)

Ms. Thompson reported that the expenditure projection for FY 2004-05 is \$7,189,665 with a projected budget balance of \$372,436 for year end.

c. Fiscal Year 2006-07 Budget Change Proposals (BCPs)

The Board prepared three BCP concept papers for FY 2006/07.

- 1) Restoration of Enforcement Analyst Positions.
- 2) Government Reporting Requirements (SB 1549, (Ch. 691, Statutes of 2004).
- 3) Fund Redirection to Restore Mail Clerk Position.

The BCPs will be submitted to DCA for review June 3, 2005 and are due to Department of Finance (DOF) in September, 2005. In past FYs, DOF's decisions on BCPs are provided in November.

d. Publication Review

Ms. Thompson reported that the Enforcement Bulletin will be finalized in early June 2005 and mailed shortly thereafter. The County Building Office Guide is now ready to be finalized. Updates to the Guide have been provided recently to Board staff from Mr. Schock and Mr. Welch.

14. Election of Board President and Vice President (Possible Action)

MOTION: Mr. Schock/Mr. Fruchtmann moved to elect Vice President Tuttle as the next President and Mr. Wilson as the next Vice President.

VOTE: 8-0, motion carried.

Vice President Tuttle suggested that with all the issues regarding the Title Act Study and Sunrise/Sunset process, that maybe it would serve the public and Board better to keep President Foley as president for the next term to maintain continuity. Mr. Wilson stated that he believes that Vice President Tuttle would serve the public and Board well as the next Board President. Mr. Markuson, on behalf of CELSOC, stated that CELSOC was also supportive of Vice President Tuttle serving as President. President Foley and Dr. Brandow offered to help out in any way they can.

15. President's Report

President Foley commended the staff on their work on the Title Act Study, Sunrise/Sunset process, etc.

17. Approval of Board Travel (Possible Action)

No Board travel.

18. Other Items Not Requiring Board Action

Date of Next Board meeting: June 23 & 24, 2005, San Francisco, California

Ms. Eissler reported that there will be a Petition for Reinstatement of Revoked License at the June 2005 Board meeting.

19. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]

- a. Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492
- b. Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996)

20. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492, and Lawrence B.

Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996).

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the indicated examinations and approved Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

Ms. Christenson reported that the Board adopted the Stipulations regarding, Ildefonso P. Chin, Robert Lee Eddy, Bertram J. Thomas, and John Harvey Hansen.

3. Approval of Consent Items (Possible Action)
(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

b. Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

MOTION: Vice President Tuttle/Mr. Wilson moved to approve candidates for licensure and certification based on examination results, including successful appeal results and take home examination results, approved in closed session.

VOTE: 9-0, motion carried.

21. Adjourn

The Board adjourned at 12:20 p.m.

PUBLIC PRESENT

Lee Adler, SEAOC
Tim Callahan, CLCPE
Bob DeWitt, CELSOC
Bill Gage, Senate B&P Committee
Steve Hao, Cal Trans
Bob Katin, CLCPE
Linda Lee, Public
D'Arcy McLeod, PEGC
Paul Milkey, PEGC
Frank Pierce, CLCPE
Patrick Tami, CLSA
Robert Weller, Public